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JUSTICE FOR ODAG, CRM, OPDAT, ICITAP
STATE FOR S/WCI, NEA/I, INL/I

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TAGS: [PGOV](#) [PHUM](#) [SOCI](#) [KAWC](#) [IZ](#)
SUBJECT: IRAQI HIGH TRIBUNAL ISSUES VERDICT IN HALABJA
CHEMICAL ATTACK CASE

Classified By: Acting DCM Gary A. Grappo, for reasons 1.4 (b) and (d)

11. (C) Summary: On January 17, 2010, the Iraqi High Tribunal (IHT) announced its verdict in the trial of Ali Hassan Al Majid (a.k.a. &Chemical Ali8), and Iraqi army officers Sultan Hashim, Sabir Al Douri, and Farhan Mutlak Saleh for the March 16, 1988 chemical attack on the Northeastern Iraqi city of Halabja. The attack killed approximately 5,000 men, women and children. All four defendants were convicted, with Ali Hassan receiving his fourth IHT death sentence for the charge of genocide, Sultan Hashim and Sabir Al Douri receiving 15 year sentences for charges of crimes against humanity, and Farhan Mutlak Saleh receiving 10 years for charges of crimes against humanity. Also on January 17, Post received a telephone call from Deputy Minister of Justice Posho Ibrahim requesting transfer of Ali Hassan, presumably in order to carry out his first IHT-issued death sentence for the Anfal Genocide Case. A formal written request from the GOI for Ali Hassan is imminently expected. End Summary.

The Attack on Halabja

12. (SBU) On March 16, 1988, the ethnically Kurdish town of Halabja, located in Northeastern Iraq near the border with Iran, was attacked by the Iraqi military. Several days before the attack the town was the site of fighting between the Iraqi Army and Iranian forces that had penetrated Iraq. On March 16, 1988, the Iraqi Air Force unleashed a bombardment with conventional and chemical weapons. It was first time in history that poison gas was used on a large scale against a civilian population. The poison chemicals employed included the blister agent mustard gas and nerve agents Sarin and Tabun. The chemical attack was preceded by conventional bombing and artillery strikes calculated to drive as many people as possible into underground bomb shelters where the gas, heavier than air, would settle and produce maximum poisonous effect. The devastating combination resulted in the deaths of over 5,000 men, women and children and serious injuries to at least 7,000 more. Photos taken after the attack depict scenes of families huddled together in their final moments of agonizing death from the chemical poison. Ali Hassan, s infamous nickname &Chemical Ali8 was spawned from this attack.

Regime Members Stand Trial for Genocide

13. (SBU) On July 25, 2007, the Iraqi High Tribunal (IHT) charged Ali Hassan, Sultan Hashim, Sabir Al Douri, and Farhan

Mutlak Salah each with one count of genocide and two counts of crimes against humanity for their roles in the attack. Ali Hassan was the commander of the Northern Bureau at the time of the attack, and wielded power in Northern Iraq equal to Saddam Hussein. Sultan Hashim was commander of the First and Sixth Troops of the Iraqi Army in the Halabja area. Sabir was Director of Military Intelligence and Farhan was Regional Director of Military Intelligence. The trial commenced on December 21, 2008. (Note: The IHT was assisted in the investigation and preparation of the Halabja case by investigators and attorneys from the Regime Crimes Liaison Office (RCLO), a USG interagency unit that supported the QOffice (RCLO), a USG interagency unit that supported the IHT,s prosecution of crimes committed by the Saddam Hussein regime between 1968 and 2003. End Note.)

¶4. (C) The case was tried by IHT Trial Chamber II. This was the same trial chamber that conducted the Anfal trial that led to the first death sentence for Ali Hassan. The presiding judge of Trial Chamber II was Mohammed Urabi. In November 2009, IHT investigative judge Ali Rubaie issued a warrant for the arrest of Mohammed Urabi based on a complaint of his conduct as an investigative judge during the Saddam Hussein regime. Judge Mohammed currently resides in the KRG, and because of the warrant, refuses to return to the court. His refusal to return led to his replacement as Trial Chamber II presiding judge. Judge Aboud Al Hamami, the recently named presiding judge of Trial Chamber V was named to replace him. Judge Aboud is currently the presiding judge of both Trial Chambers II and V.

IHT Renders Verdict and Issues Sentences

¶5. (S) On January 17, 2010, Trial Chamber II issued its verdict in the Halabja case. Ali Hassan was convicted of all three charges and received the maximum penalty of death by hanging for the charge of genocide. Ali Hassan has now officially acquired four death sentences. He had been convicted previously by the IHT in five separate cases and received death sentences in three of them; the Friday Prayers Case, the 1991 Shi,a Uprising Case, and the Anfal Case. Ali Hassan still awaits the execution of his first death sentence, issued for Anfal in June 2007. The Presidency Council signed Ali Hassan,s Anfal death warrant in February 2008, ostensibly resolving a conflict between the Prime Minister and Presidency Council over the constitutional requirements for execution of an IHT death sentence. Ali Hassan is currently held by US military forces. On January 17, Embassy,s Ministry of Justice Advisor received a telephone call from Deputy Minister of Justice Posho Ibrahim requesting transfer of Ali Hassan in order to carry out his Anfal death sentence. (COMMENT: We are awaiting formal written request from the GOI for Al Hassan before we transfer him to GOI custody. A move by the GOI to execute Ali Hassan before the March elections may maximize political benefit for current Prime Minister Nouri Al-Maliki amongst Kurdish voters. END COMMENT)

¶6. (SBU) Sultan Hashim, the area,s military commander at the time, and Sabir Al Douri, Commander of Military Intelligence, were acquitted on the charge of genocide but received sentences of 15 years on the two charges of crimes against humanity. Sultan Hashim carries a death sentence from the IHT for his management of the Anfal Campaign in 1987 and 1988, though the Presidency Council has refused to ratify that sentence. Sabir Al Douri carries a life sentence for his role in Anfal. Farhan Mutlak Saleh, the Regional Director of Military Intelligence, was acquitted of genocide, but received a sentence of 10 years on the two charges of crimes against humanity. Farhan also carries a life sentence for his role in Anfal.

¶7. (C) Comment: The verdict in the Halabja case is the eighth verdict issued by the IHT since the commencement of trial operations in October 2005. The court currently has ten cases in litigation with another four cases under

investigation. Article 134 of the Iraqi Constitution calls for the dissolution of the court by the Council of Representatives when its work is completed. There is currently a proposed bill in the Iraqi Parliament that would end the court,s work on April 30, 2010. However, it appears unlikely that this bill will pass. Most IHT personnel that the Embassy Rule of Law Coordinator,s IHT liaison has spoken to expressed belief that the work of the IHT will not be completed until mid-2010 at the earliest. However, there is no firm direction on when the court will end its work as some IHT judges feel their security and status are tied to the continuation of the court. End Comment.

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